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FEB 3 2005

In re Application of:  
Masahiro Tanaka  
Serial No.: 09/834,075  
Filed: April 12, 2001  
Attorney Docket No.: 09792909-4974

DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed on December 27, 2004. The petition has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Final Office action mailed on July 18, 2003. A Notice of Abandonment was mailed on January 29, 2004.

Petitioner asserts that on December 18, 2003, a response including an amendment, a petition for a two-month extension of time, check to cover the extension fee, and a certificate of mailing was filed. To support this assertion, petitioner has submitted a copy of the response and the certificate of mailing showing a December 18, 2003 deposit date. Petitioner also provides a copy of a return postcard receipt acknowledging receipt in the Office of a transmittal form, transmittal fee, amendment, and check on December 29, 2003.

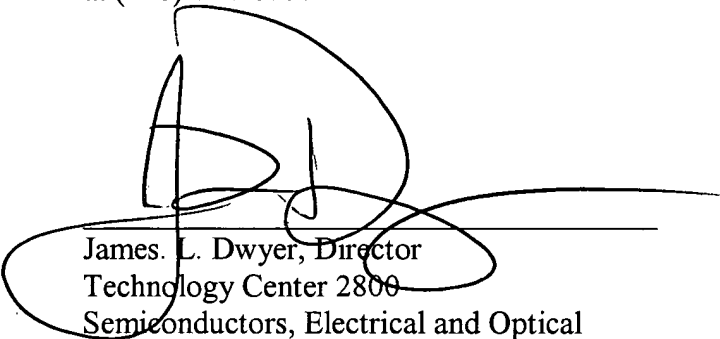
A proper reply under 37 C.F.R. § 1.113 to a final rejection consists of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114. Pursuant to 37 C.F.R. § 1.113, the time for reply to a Final Office action does not stop unless there is a timely filing of a proposed After Final Amendment that places the application in condition for allowance.

A review of the application file record reveals that the original response, including the petition for a two-month extension of time, filed December 18, 2003 is now of record. Furthermore, the reply places the application in condition for allowance since claims 5 - 15, indicated in the Final

Office action as being allowed, will be the only pending claims in the application upon entry of the After Final Amendment.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.



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